

**BEFORE THE APPEALS BOARD  
FOR THE  
KANSAS DIVISION OF WORKERS COMPENSATION**

**DONNA BLACKMON**  
Claimant

VS.

**MEDICALODGES, INC.**  
Respondent  
Self-Insured

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Docket No. 206,025

**ORDER**

Respondent appeals from an Award entered by Administrative Law Judge Robert H. Foerschler on May 13, 1997. The Appeals Board heard oral argument October 21, 1997.

**APPEARANCES**

R. Owen Watchous of Olathe, Kansas, appeared on behalf of the claimant.  
H. Wayne Powers of Overland Park, Kansas, appeared on behalf of the respondent.

**RECORD AND STIPULATIONS**

The Appeals Board has reviewed and considered the record listed in the Award. In addition, the Appeals Board has considered the deposition of Anthony Godfrey taken on March 13, 1997. It appears that the Administrative Law Judge reviewed and considered the deposition of Anthony Godfrey but did not list the deposition in the Award.

**ISSUES**

On appeal, the respondent asks the Appeals Board to review and decide the following issues:

- (1) Whether claimant met with personal injury by accident on May 30, 1995.
- (2) Whether claimant's alleged injury arose out of and in the course of her employment.
- (3) Whether claimant is entitled to future medical expenses.
- (4) The nature and extent of claimant's disability, if any.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After reviewing the record and considering the arguments, the Appeals Board concludes that claimant did not sustain an accidental injury arising out of and in the course of her employment. Specifically, the Appeals Board finds that claimant did not suffer a myocardial infarction or other heart problem on or about May 30, 1995, and that claimant's heart problems were not caused, aggravated, or accelerated by her work for respondent.

Claimant worked as a housekeeper for respondent, MedicalLodges, Inc., and her general duties included cleaning residents' rooms and the dining room after meals, sweeping and mopping floors, dusting, and cleaning the small bathrooms. In May of 1995 respondent assigned claimant duties stripping, sealing, and waxing floors. The work included moving the furniture out so that new tile could be put down and back after the tile was placed.

On May 30, 1995, claimant began to feel ill while she was performing her work stripping floors. Claimant did not return to work on May 31 and went to the Miami County Medical Center on June 1, 1995. Dr. Mark Holscher admitted her to the hospital on that date with complaints of shortness of breath and right side chest pain. Dr. Karl D. Pfuetze, a board certified cardiologist, was called in for a consultation and he transferred her to the Overland Park Regional Medical Center. At the Miami County Medical Center and also at the Overland Park Regional Medical Center, Dr. Pfuetze undertook a variety of studies including blood studies, echocardiogram, and cardiac catheterization. Dr. Pfuetze diagnosed and treated claimant for congestive heart failure. The congestive heart failure was successfully treated with diuretics. He also diagnosed cardiomyopathy. He found evidence of prior myocardial infarctions and evidence of blockage of the coronary arteries. Dr. Pfuetze ruled out a recent myocardial infarction.

Claimant contends that she suffered a myocardial infarction on or about May 30, 1995. She alleges that the heart attack was precipitated by work involving exertion which was more than claimant's usual work in the course of her regular employment. According to claimant, the circumstances satisfy the requirements of K.S.A. 1993 Supp. 44-501(e) for a compensable myocardial infarction.

The decision in this case turns on the relative weight given to the testifying medical experts. Gerald B. Lee, M.D., testified as an expert on behalf of the claimant. According to Dr. Lee, claimant suffered a heart attack on May 30, 1995, as a result of her work activities and is now totally disabled. Dr. Pfuetze, the treating cardiologist, testified as above indicated, that claimant did not suffer a heart attack on or about May 30, 1995. According to Dr. Pfuetze, claimant suffered two earlier heart attacks. Loren D. Berenbom, M.D., reviewed claimant's medical records. He concluded, as did Dr. Pfuetze, that claimant did not suffer a heart attack on or about May 30, 1995, but had suffered two earlier heart attacks. Both Dr. Pfuetze and Dr. Berenbom testified that nothing claimant did at her work on or about May 30, 1995, caused any additional impairment which had not previously existed.

After reviewing and considering the testimony of claimant as well as the medical experts, the Appeals Board finds the opinions of Drs. Pfuetze and Berenbom to be more persuasive and convincing. The first physician who saw claimant on May 31, 1995, diagnosed a cough with upper respiratory infection. Dr. Pfuetze testified that the chest pain claimant was experiencing was not cardiac in nature. The pain sharpened with a deep breath and, according to Dr. Pfuetze, this was not consistent with cardiac chest pain. Dr. Pfuetze found that claimant had a decreased cardiac function, pulmonary congestion, and global hypokinesia. He performed a battery of cardiac diagnostic tests which revealed, in Dr. Pfuetze's opinion, two prior "silent" myocardial infarctions including an infarction of the left anterior descending artery which Dr. Lee felt was more recent in origin. Dr. Pfuetze pointed specifically to two pieces of information as convincing evidence that the myocardial infarctions had occurred weeks or months earlier. According to Dr. Pfuetze, the enzyme studies were nearly 100 percent conclusive evidence that she had not suffered a large heart attack immediately preceding her hospitalization. He also found the electrocardiogram as further evidence that the myocardial infarction was not recent. Finally, he noted that information obtained through catheterization showed a remodeling of the heart consistent with an older process rather than a recent one. He agreed that claimant has a long-standing condition of heart disease but opined that no new injury had occurred as a result of claimant's work activities.

Dr. Berenbom confirmed Dr. Pfuetze's conclusions. According to Dr. Berenbom, three criteria identify an acute myocardial infarction. They are: (1) a history of ischemic type chest pain; (2) electrocardiogram changes; and (3) enzyme changes indicative of myocardial infarction. According to Dr. Berenbom, none of the three criteria were present in claimant's case. He reviewed the echocardiogram and agreed that it revealed a global dysfunction and dilation of the heart indicative of an infarction at least several weeks old.

Dr. Lee has provided testimony on behalf of the claimant and testified to a conclusion supporting compensability of claimant's heart condition. In his testimony, he attempts to explain why the factors of criteria applied by Drs. Pfuetze and Berenbom are not conclusive in this case. According to Dr. Lee, the enzyme studies, for example, could easily have returned to the levels found on hospitalization even if the heart attack occurred

on May 30, 1995. He also testified to his opinions regarding exertion and stress as causative factors in myocardial infarctions. The Appeals Board finds, however, the testimony of Drs. Pfuetze and Berenbom to be more persuasive. On the basis of a review of the entire record, the Board concludes that claimant has failed to establish by a preponderance of the credible evidence that she sustained either a myocardial infarction or other accidental injury arising out of and in the course of her employment.

**AWARD**

**WHEREFORE**, the Appeals Board finds that the Award by Administrative Law Judge Robert H. Foerschler, dated May 13, 1997, should be, and is hereby, reversed. Claimant's application for benefits is denied.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of October 1997.

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BOARD MEMBER

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BOARD MEMBER

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BOARD MEMBER

c: R. Owen Watchous, Olathe, KS  
H. Wayne Powers, Overland Park, KS  
Robert H. Foerschler, Administrative Law Judge  
Philip S. Harness, Director